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Message Text

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E.O. 11652: N/A

TAGS: ETRD, JA

SUBJECT: TRADE FACILITATION COMMITTEE CASE -- THE
FERTILIZER INSTITUTE

REF: (A) TOKYO 2906; (B) 77 STATE 199189; (C) 77 TOKYO
12404; (D) 77 STATE 186053; (E) 77 STATE 159638; (F) 77
TOKYO 8608; (G) 77 STATE 129643; (H) 77 TOKYO 6968

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GENEVA FOR HARTZELL AND MATTHIESEN

1. SUMMARY: COMMERCE (USDOC) FORWARDING NEW CASE FOR TFC
CONSIDERATION CONCERNING MINISTRY OF INTERNATIONAL TRADE
AND INDUSTRY (MITI) "ADMINISTRATIVE GUIDANCE" OR
"GUIDELINES" RESTRICTING IMPORTS OF DIAMMONIUM PHOSPHATE
(DAP), A FINISHED PHOSPHATIC FERTILIZER MATERIAL, FROM THE
UNITED STATES. END SUMMARY.

2. THE FERTILIZER INSTITUTE, UNDER COVER OF A LETTER TO

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USDOC OF MAY 31, SUBMITTED A COPY OF LETTER OF MARCH 9 TO STR STRAUSS CONCERNING SUBJECT JAPANESE NONTARIFF BARRIER AND A GENERAL DESCRIPTION OF THE RESTRICTIVE MITI GUIDE-LINES AND THEIR IMPACT ON U.S. EXPORTS (LETTER WITH ATTACH-MENTS BEING SENT TO EMBASSY; COPIES OF REFTELS WHICH

DESCRIBE USG APPROACHES TO MITI ON THIS SUBJECT THROUGH FEBRUARY OF 1978 ARE ALSO BEING SENT; EMBASSY SHOULD PROVIDE WASHINGTON WITH A COPY OF FINAL AIDE-MEMOIRE OF AUGUST 1977). COPIES OF TABLES I-IV REFERRED TO BELOW ARE BEING SENT TO EMBASSY AS WELL.

3. TEXT OF TFC CASE ON BEHALF OF THE FERTILIZER INSTITUTE TO BE PRESENTED TO JAPANESE OFFICIALS IN TFC ALONG THE FOLLOWING LINES: BEGIN TEXT.

A. SUMMARY OF CASE: MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY (MITI) "ADMINISTRATIVE GUIDANCE" OR "GUIDELINES" ARE RESTRICTING IMPORTS INTO JAPAN OF DIAMMONIUM PHOS-PHATE (DAP), A FINISHED PHOSPHATIC FERTILIZER MATERIAL, FROM THE UNITED STATES.

B. FACTS OF THE CASE:
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(1) MITI "ADMINISTRATIVE GUIDANCE" USED TO RESTRICT IMPORTS OF DAP IN FY 78: IN EARLY 1977 THE JAPAN PHOS-PHATE AND COMPOUND FERTILIZER MANUFACTURERS ASSOCIATION REQUESTED MITI TO REDUCE JAPANESE IMPORTS OF SECONDARY PHOSPHATIC FERTILIZER MATERIALS SUCH AS DAP, POSSIBLY THROUGH INVESTIGATING A DUMPING CHARGE AGAINST U.S. EXPORTERS. IN MAY-JUNE 1977 MITI CONFIRMED TO U.S. EMBASSY TOKYO THE NIHON KEIZAI SHIMBUN REPORT OF APRIL 29 THAT IT HAD DECIDED TO TAKE ACTION UNDER "ADMINISTRATIVE GUIDANCE" TO ENCOURAGE DOMESTIC IMPORTERS OF SECONDARY PHOSPHATIC FERTILIZER MATERIALS SUCH AS DAP TO LIMIT THEIR IMPORTS TO 10-20 PERCENT OF DOMESTIC CONSUMPTION IN FERTILIZER YEAR 1978 (JULY 1977-JUNE 1978). (THE FIGURE OF 100,000 METRIC TONS FOR DAP IMPORTS THAT WAS CITED BY THE NEWSPAPER REPORT WAS NOT, HOWEVER, CONFIRMED). THE NEW MITI "GUIDELINES" WERE APPARENTLY PART OF ASSIS-TANCE TO THE "STRUCTURALLY DEPRESSED" JAPANESE FERTILIZER INDUSTRY AND A "SOLUTION" TO THE DUMPING ISSUE, SINCE A FORMAL CHARGE WAS NEVER BROUGHT.

(2) PREVIOUS USG-GOJ REPRESENTATIONS CONCERNING "GUIDELINES": IN JULY-AUGUST 1977, THE U.S. GOVERNMENT EXPRESSED ITS CONCERN OVER THE NATURE AND MANNER OF MITI'S ACTION, WHICH IT CONSIDERED AS POTENTIALLY TRADE RESTRICTIVE, AND TRANSMITTED TO THE GOJ A FORMAL AIDE-MEMOIRE REGARDING THESE CONCERNS (EMBASSY SHOULD ATTACH

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COPY). THE GOJ RESPONDED TO THE USG REPRESENTATIONS BY TAKING THE POSITION THAT JAPANESE IMPORTERS HAD "VOLUNTARILY" AGREED TO RESTRICT THEIR IMPORTS OF SECONDARY PHOSPHATE MATERIALS AFTER HAVING RECEIVED "GUIDANCE"

OR "GUIDELINES" FROM MITI, AND THAT NO "OFFICIAL/RETRICTIONS HAD BEEN IMPOSED BY MITI.

(3) INCREASING PRESSURE ON JAPAN DUE TO DAP IMPORTS:
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JAPAN HAS NO DOMESTIC SOURCES OF PHOSPHATE AND HENCE DEPENDS PRIMARILY ON U.S. SOURCES FOR BOTH PHOSPHATE ROCK AND SECONDARY PHOSPHATIC FERTILIZER MATERIALS. PHOSPHATE ROCK IS A BASIC RAW MATERIAL THAT IS CONVERTED INTO SECONDARY COMPOUNDS SUCH AS SUPERPHOSPHATES OR AMMONIUM PHOSPHATES, WHICH ARE IN TURN USED TO PRODUCE FINISHED COMPOUND FERTILIZERS BY A CHEMICAL PROCESS INVOLVING NITROGEN, PHOSPHATE, AND POTASH. JAPANESE PHOSPHATE ROCK PROCESSORS DEPEND ON TRADING COMPANIES FOR SUPPLY OF THEIR RAW MATERIAL AND HAVE AN INTEREST IN MAINTAINING THE USE OF THEIR HEAVY CAPITAL INVESTMENT IN PROCESSING FACILITIES. THIS INTEREST MAY CONFLICT WITH THAT OF THE "BLENDING" SEGMENT OF THE JAPANESE FERTILIZER INDUSTRY, WHICH CAN IMPORT SECONDARY COMPOUNDS SUCH AS DAP DIRECTLY FOR USE IN BLENDED FINISHED COMPOUND FERTILIZER PRODUCTS. ECONOMIC SHIFTS RESULTING LARGELY FROM THE OIL CRISIS HAVE TENDED TO MAKE THE COST OF PROCESSING PHOSPHATE ROCK GREATER THAN THAT OF USING IMPORTED MATERIALS SUCH AS DAP FOR FINISHED FERTILIZERS. COMBINED WITH THE DEPRESSED CONDITIONS IN THE JAPANESE FERTILIZER INDUSTRY, INCREASING IMPORTS OF SECONDARY MATERIALS SUCH AS DAP IN RELATION TO PHOSPHATE ROCK IMPORTS, ESPECIALLY IN FERTILIZER YEAR 1977, BROUGHT INCREASING PRESSURE ON JAPANESE PHOSPHATE ROCK PROCESSORS AND IMPORTERS, WHICH IN TURN BROUGHT PRESSURE ON MITI TO RESTRICT IMPORTS OF SECONDARY MATERIALS.

(4) JAPANESE IMPORTS OF AMMONIUM PHOSPHATES (MOSTLY DAP) FALLING IN BOTH ABSOLUTE AND RELATIVE TERMS: TABLE I--JAPANESE IMPORTS OF PHOSPHATE ROCK AND AMMONIUM PHOSPHATES INDICATES HOW JAPANESE IMPORTS OF AMMONIUM PHOSPHATES, MOST OF WHICH WERE IN THE FORM OF U.S. DAP -- NEARLY TRIPLED TO A RECORD 230,000 METRIC TONS IN FERTILIZER YEAR
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1977 FROM THE 80,000 TONS OF FY 76. IMPORTS OF AMMONIUM PHOSPHATES ACCOUNTED FOR OVER 14 PERCENT OF CONSUMPTION IN

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FY 77 AS COMPARED TO ABOUT 6 PERCENT IN FY 76. PERHAPS A MORE USEFUL MEASURE OF THE TRENDS OF JAPANESE AMMONIUM PHOSPHATE IMPORTS IS THEIR RATIO IN P205 CONTENT TO PHOSPHATE ROCK IMPORTS. HERE TABLE I INDICATES AN INCREASE FROM ABOUT 5 PERCENT IN FY 76 TO 12.5 PERCENT IN FY 77. SINCE THE MITI "ADMINISTRATIVE GUIDANCE" OR "GUIDELINES" TOOK EFFECT AT THE BEGINNING OF FY 78, WE FIND THAT THIS RATIO HAS DROPPED TO ABOUT 7 PERCENT IN THE FIRST ;ALF AND 11 PERCENT IN THE THIRD QUARTER OF FY 78. THE U.S. DATA IN TABLES II AND III CONFIRM THE JAPANESE DATA IN

TABLE I AND INDICATE THAT JAPANESE IMPORT DATA IN THE LAST QUARTER OF FY 78 WILL PROBABLY SHOW A FURTHER DECLINE IN IMPORTS OF AMMONIUM PHOSPHATE BOTH ABSOLUTELY AND RELATIVE TO CONSUMPTION AND ROCK IMPORTS. TABLE II SHOWS U.S. EXPORTS OF PHOSPHATE ROCK, DIAMMONIUM PHOSPHATE, AND OTHER AMMONIUM PHOSPHATES TO JAPAN IN FY 76-78. ONCE AGAIN, THE DATA ILLUSTRATES THE SHARP INCREASE IN U.S. DAP EXPORTS TO JAPAN IN FY 77 TO 178,000 METRIC TONS FROM ONLY 58,000 METRIC TONS A YEAR EARLIER. AS A RATIO TO ROCK EXPORTS IN P205 CONTENT, DAP EXPORTS ROSE TO 17.5 PERCENT IN FY 77 FROM ABOUT 6 PERCENT IN FY 76. IN FY 78 (FIRST NINE MONTHS) ON THE OTHER HAND, ROCK EXPORTS HAVE RISEN SOMEWHAT WHILE DAP EXPORTS HAVE FALLEN SUBSTANTIALLY TO ONLY 102,000 METRIC TONS WITH THE RATIO DOWN TO ABOUT 10 PERCENT.

TABLE III PRESENTS U.S. DATA ON A YEARLY, QUARTERLY, AND MONTHLY BASIS FOR RELEVANT PERIODS OF FY 76-78 FOR U.S. EXPORTS OF DAP TO JAPAN AND THE REST OF THE WORLD. THESE DATA POINT TO THE FACT THAT U.S. EXPORTS OF DAP TO JAPAN AS A RATIO OF U.S. EXPORTS OF DAP TO THE WORLD HAVE FALLEN SUBSTANTIALLY SINCE, IN THE FIRST NINE MONTHS OF FY 78 AS COMPARED TO FY 77, U.S. EXPORTS TO THE WORLD HAVE

RISEN WHILE THOSE TO JAPAN HAVE FALLEN. A;OTHER KEY POINT IS THE INDICATION THAT U.S. EXPORTS OF DAP TO JAPAN IN THE THIRD QUARTER OF FY 78 (JAN-MAR 78) CONTINUE TO DROP WHILE EXPORTS TO THE WORLD ARE ON THE RISE. IT WOULD APPEAR THAT THE MITI RESTRICTIONS ARE HAVING A SOMEWHAT GREATER EFFECT AT THIS POINT THAN AT THE BEGINNING OF FY 78.

(5) JAPANESE IMPORT RESTRICTIONS ON DAP CAUSING LOSS OF U.S. EXPORTS, PERHAPS AS MUCH AS DOLLARS 20 MILLION: TO SUMMARIZE, THE DATA IN TABLES I-III PROVIDE EVIDENCE THAT MITI "GUIDELINES" TO RESTRICT IMPORTS OF DIAMMONIUM PHOSPHATES ARE HAVING A DEPRESSING EFFECT ON U.S. EXPORTS OF THIS PRODUCT TO JAPAN. WHILE IT IS DIFFICULT TO ESTIMATE JUST HOW MUCH U.S. DAP JAPANESE IMPORTERS WOULD HAVE IMPORTED DURING FY 78 IN THE ABSENCE OF MITI

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"ADMINISTRATIVE GUIDANCE", U.S. INDUSTRY SOURCES BELIEVE THAT U.S. EXPORTS MIGHT HAVE RISEN TO AS HIGH AS 300,000 METRIC TONS. THIS ESTIMATE IS BASED ON AN ECONOMIC ASSESSMENT OF THE LOWER COSTS OF IMPORTING DAP GIVEN THE APPRECIATION OF THE YEN RELATIVE TO THE DOLLAR AND HENCE THE FALLING YEN PRICE OF U.S. DAP (SEE TABLE IV). BASED ON FY 77 U.S. EXPORT F.O.B. VALUES, EACH 10,000 METRIC TON SHIPMENT LOST AS A RESULT OF THE MITI "GUIDELINES" REPRESENTS A LOSS OF DOLLARS 1.2 MILLION TO U.S. EXPORTS. GIVEN THE FY 78 ESTIMATE OF 300,000 METRIC

TONS AND USING AN ANNUALIZED ESTIMATE OF 136,000 METRIC TONS OF ACTUAL EXPORTS TO JAPAN FOR FY 78, THE TOTAL VALUE OF LOST EXPORTS TO THE UNITED STATES APPROACHES DOLLARS 20 MILLION.

C. DISCUSSION:

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(1) WHILE THE USG APPRECIATES THE DEPRESSED NATURE OF THE JAPANESE FERTILIZER INDUSTRY AND THE EFFECT THAT INCREASED IMPORTS COULD HAVE ON THE INDUSTRY, U.S. EXPORTERS OF SECONDARY PHOSPHATIC FERTILIZER MATERIALS SUCH AS DAP HAVE BEEN INJURED DUE TO IMPORT RESTRICTIONS WHICH RESULT FROM THE ACTIONS OF A JAPANESE GOVERNMENT AGENCY (MITI). THESE RESTRICTIONS WERE INSTIT;TED AS A SURROGATE FORM OF IMPORT RELIEF BUT WITHOUT NOTIFICATION BY THE GOJ TO THE GATT UNDER ARTICLE XIX. THEY HAVE APPARENTLY RESULTED IN A SIGNIFICANT LOSS OF U.S. EXPORTS AS INDICATED BY THE TRADE DATA CITED ABOVE.

(2) THIS WOULD T;EREFORE APPEAR TO BE AN INSTANCE OF A JAPANESE GOVERNMENT PRACTICE OR PROCEDURE WHICH IS INHIBITING U.S. EXPORTS. THE CONTINUATION OF MITI GUIDE-LINES ON IMPORTS OF DAP WOULD BE CONTRARY TO THE COMMIT-MENT OF THE GOJ TO AN OPEN AND LIBERAL TRADE POLICY AND TO FACILITATING INCREASED JAPANESE IMPORTS FROM THE UNITED STATES AND OTHER COUNTRIES WITH A VIEW TO REDUCING THE JAPANESE TRADE AND CURRENT ACCOUNT SURPLUSES.

D. RELIEF SOUGHT:

(1) THE USG REQUESTS ON BEHALF OF THE FERTILIZER INSTITUTE AND U.S. DIAMMONIUM PHOSPHATE EXPORTERS A DISCONTINUANCE OF THE MITI "GUIDELINES" LIMITING JAPANESE IMPORTS OF AMMONIUM PHOSPHATES. SUCH ACTION SHOULD LEAD TO A SUBSTANTIAL INCREASE IN JAPANESE IMPORTS OF DAP IN FERTILIZER YEAR 1979 ONCE MARKET FORCES IN JAPAN ARE FREE TO DETERMINE THE LEVEL OF SUCH IMPORTS. END TEXT.

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4. WHILE THIS CASE IS CLEARLY UITHIN THE JURISDICTION OF MITI, THE GOJ WILL PROBABLY RESPOND ALONG LINES SIMILAR TO THOSE USED LAST YEAR AND DESCRIBED IN PARA 3B(1)-(2) ABOVE, I.E., THAT NO "OFFICIAL" RESTRICTIONS ON IMPORTS EXIST. OUR POSITION IS MADE EVEN MORE DIFFICULT BY THE LIMITED OFFICIAL USE
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FACT THAT THERE APPEARS TO BE NO PRECISE QUANTITATIVE LIMIT ON JAPANESE IMPORTS OF DAP, SINCE THE 100,000 MT LIMIT WHICH HAS OFTEN BEEN MENTIONED HAS ALREADY BEEN SURPASSED BY IMPORTS OF DAP FROM THE UNITED STATES ALONE IN THE FIRST THREE QUARTERS OF FY78. EMBASSY MAY WISH

TO PRESS MITI ON THE EXACT NATURE OF THE "GUIDELINES" AND HOW THEY OPERATE; MITI'S VIEW OF THEIR INTENDED AND ACTUAL EFFECT ON IMPORTS; MITI'S ESTIMATE OF CONSUMPTION FOR FY 78 TO DETERMINE THE 10-20 PERCENT RANGE FOR IMPORTS; AND MITI'S DATA AND INTERPRETATION OF DATA ON JAPANESE IMPORTS OF DAP IN RELATION TO CONSUMPTION AND PHOSPHATE ROCK IMPORTS, AS WELL AS MITI ESTIMATES FOR THE FOURTH QUARTER OF FY 78. IF MITI CAN PROVIDE ANY ESTIMATES FOR THE FOURTH QUARTER, WE SHOULD BE IN A GOOD POSITION TO SHOW THAT JAPANESE DAP IMPORTS FOR FY 78 AS A WHOLE, AHD FOR THE LAST HALF OF FY 78, HAVE BEEN DECLINING RELATIVE TO FY 77 DAP IMPORTS AND TO FY 78 U.S. EXPORTS TO THE WORLD, IMPORTS OF ROCK INTO JAPAN, AND OVERALL JAPANESE CONSUMPTION. WE CAN THEN PRESS MITI TO PROVIDE AN EXPLANATION FOR THESE TRENDS AND PRESENT OUR VIEW THAT THE MITI "GUIDELINES" OFFER THE MOST PLAUSIBLE EXPLANATION.

5. FYI: DATA IN TABLE IV SHOULD BE USED ONLY TO ILLUS-TRATE PRICES OF U.S. DAP EXPORTS AND NOT THE RELATIVE COST COMPARISON BETWEEN JAPANESE IMPORTS OF DAP AND JAPANESE COSTS OF PRODUCTION OF SECONDARY PHOSPHATIC MATERIALS, SINCE THE JAPANESE PRODUCE RELATIVELY LITTLE DAP FROM PHOSPHATE ROCK AND THE BULK OF THEIR PRODUCTION IS IN TRIPLE SUPERPHOSPHATE, THE COST OF WHICH IS UNKNOWN. (EMBASSY MAY WISH TO EXPLORE THIS QUESTION WITH MITI, BUT OUR EFFORTS HERE HAVE SHOWN THE DIFFICULTY OF ARRIVING AT
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ANY CLEAR ECONOMIC COMPARISON). FOR THESE REASONS AND OTHERS (SUCH AS THE STATEMENT THAT 100,000 MT IS THE IMPORT LIMIT FOR FY 78), WE STRONGLY SUGGEST THAT THE EMBASSY NOT REPEAT NOT PROVIDE TO MITI A COPY OF THE FERTILIZER INSTITUTE MATERIALS. END FYI

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6. ACTION REQUESTED: EMBASSY IS REQUESTED TO SUBMIT
ABOVE CASE TO TFC (MITI). END CABLE. CHRISTOPHER

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